

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

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Telephone Number:

Refer Reply To:

CC:PSI:B05

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Date: March 1, 2007

LEGEND

Taxpayer =

Chief =

BIN
NUMBERS =

Dear :

This letter responds to a letter dated October 16, 2006, and subsequent correspondence from Taxpayer's authorized representative, requesting an extension of time to elect under § 42(g)(3)(D) of the Internal Revenue Code to identify specific buildings as part of a single, multiple-building project pursuant to § 301.9100-1 of the Procedure and Administration Regulations.

Based upon Taxpayer's facts and representations as submitted, Taxpayer did not make a proper election under § 42(g)(3)(D) to identify specific buildings as part of a single, multiple-building project. The specific buildings Taxpayer intended to treat as part of a single, multiple-building project have the following building identification numbers: BIN NUMBERS.

Section 42(g)(1) defines the term "qualified low-income housing project" as any project for residential rental property if the project meets the requirements of § 42(g)(1)(A) or (B), whichever is elected by the taxpayer. The project meets the requirements of § 42(g)(1)(A) if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income. The project meets the requirements of § 42(g)(1)(B) if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Section 42(g)(3)(D) provides that, for purposes of § 42, a project will be treated as consisting of only 1 building unless, before the close of the first calendar year in the project period (as defined in § 42(h)(1)(F)(ii)), each building which is (or will be) part of such project is identified in such form and manner as the Secretary may provide.

Section 301.9100-7T(b) of the temporary Procedure and Administration Regulations provides that for elections under the Tax Reform Act of 1986, the election under § 42(g)(1) must be made for the taxable year in which the project is placed in service and shall be made in the certification required to be filed pursuant to § 42(l)(1). Section 301.9100-7T(a)(4)(i) provides that the election under § 42(g)(1) is irrevocable.

Section 42(l)(1) provides, in part, that following the close of the first taxable year in the credit period with respect to any qualified low-income building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes) the election made under § 42(g) with respect to the qualified low-income housing project of which such building is a part.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election.

Section 301.9100-1(b) defines the term "regulatory election" as including an election whose due date is prescribed by a regulation published in the Federal Register or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 for a taxpayer to make a regulatory or statutory election.

Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Requests for relief under § 301.9100-3(a) will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

In the instant case, based solely on the facts submitted and the representations made by the Taxpayer, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been met. Accordingly, Taxpayer is granted an extension of time to identify each of the buildings having the BIN NUMBERS as a single, multiple-building project under § 42(g)(3)(D) by filing within 45 days from the date of this letter for all open taxable years through 2005 amended Forms 8609 that include the intended elections. [Note: Amended Forms 8609 are not required to be filed for taxable years after 2005]. Attached to the amended Forms 8609 must be the statement required by the instructions for line 8b of Form 8609 for multiple-building projects. The amended Forms 8609 for taxable years prior to 2005 are to be filed with the Service Center where Taxpayer files its return. The amended Forms 8609 for taxable year 2005 are to be filed at the following address:

Internal Revenue Service
P. O. Box 331
Attn: LIHC Unit, DP 607 South
Philadelphia, PA 19020

In addition, a copy of this letter along with copies of the amended Forms 8609 (including the attached statement) should be sent to Chief. A copy of this letter is enclosed for this purpose.

No opinion is expressed or implied regarding the application of any other provisions of the Code or regulations. Specifically, we express no opinion on whether Taxpayer's low-income housing project otherwise qualifies for the low-income housing credit under § 42.

This ruling is directed only at the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file, a copy of this letter is being sent to Taxpayer's authorized representative.

Sincerely,

William P. O'Shea
Associate Chief Counsel
(Passthroughs and Special
Industries)

Enclosures (2): Copy of this letter
 Copy for § 6110 purposes